

MEMORANDUM

TO: All Chapter 13 Practitioners

FROM: Judge Morgenstern-Clarren

DATE: October 28, 1996

RE: Orders on Uncontested Objections to Claims/Timely Submission of Orders

1. Objections to claims are often resolved without a hearing when the objection includes a clause to the effect that the objection may be granted without hearing unless a written response is filed and served within seven days of the hearing date. Orders sustaining these objections are in essence default judgments because they are granted without the presentation of evidence. A problem has arisen with counsel submitting proposed orders that contain factual findings in favor of the objecting party; those orders are not appropriate if an evidentiary hearing is not held. To assist counsel in submitting orders that are likely to be approved without modification, a model order for use under the circumstances described is attached. The model is similar to that currently in use when motions to lift stay are granted without a hearing and should be equally easy to use.

Any lawyer who would prefer to have an order resolving an objection on the merits should feel free to request an evidentiary hearing.

2. All proposed orders reflecting relief granted on a Chapter 13 docket should be submitted no later than the Tuesday following the docket. This applies to relief granted by default, by agreement or from the bench. Your cooperation in submitting these on a timely basis will reduce the amount of time spent by the Clerk's office and the office of the Chapter 13 Trustee in tracking down missing orders. Ultimately, it is to everyone's advantage to have a timely, complete record that accurately reflects the case status.

Thank you.